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21 September 2026

Dear Jenni,

## REPRESENTATION OF THE PEOPLE BILL

Thank you for your letter of 3 September 2026 in relation to the Representation of the People Bill. I fully appreciate and acknowledge the need for sufficient time for the Committee to consider and agree an informed view on consent in relation to this Bill so I am sorry that this response is slightly later than had been requested.

The Scottish Government's Supplementary Legislative Consent Memorandum lodged on 21 August 2026 recommended the Parliament give consent to relevant provisions of the Bill in Parts 2 (electoral registration) and 3 (conduct of elections). The latter recommendation focused on arrangements for absent voting and it might be helpful in this context to highlight that the UK Government's Online Absent Voting Application portal, which allows voters to apply online for a postal or proxy vote, is due to permit applications by voters for Scottish Parliament and Scottish local government elections from 3 November 2026. I hope that the explanation set out in the August supplementary LCM (and also the following supplementary LCM on 10 September) provides the Committee with a helpful explanation of my thoughts on consent in this area. Please do not hesitate to ask if Members would like further information.

Consideration of legislative consent to the relevant provisions in Parts 4 (campaigns and political expenditure) and 5 (enforcement and the Electoral Commission) remains ongoing. As you note, the Bill is wide-ranging and consideration has been complicated by the substantial changes made to the Bill by the UK Government as it progressed.

I should also acknowledge that many of those changes have been a response to the Rycroft Review into foreign interference in politics, which reported on 25 March this year. I am sympathetic to both the recommendations of the Rycroft Report and the overall aims of the UK Government in its response. However, I am also mindful that several aspects of political campaigning regulation for Scottish Parliament and local government elections are devolved and that there is a need to ensure a full role for the Scottish Parliament in any change.

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Part 4 of the Bill begins with Clause 55, which makes provision in relation to the protection of agent addresses where a candidate is their own agent. I am sympathetic to the changes in the Bill, which interact with modifications made by the Scottish Elections (Representation and Reform) Act 2025 (“the 2025 Act”). The supplementary LCM lodged in August referred to planned changes by the Scottish Government in this area and the Committee will have noted that these changes have now been presented to Parliament in the form of the Scottish Local Government Elections (Election Agents, Expenses and Publication of Information) Amendment Order 2026<sup>[1]</sup>. My officials have highlighted this to their counterparts in the UK Government and the expectation is that a technical revision to the Bill provisions may be required as a result. In summary, I think there is general agreement on policy in this area and my expectation is that Clause 55 should be welcomed and that – if consent remains required following any further amendment – it is likely to be recommended in relation to a version updated to take account of the new Order.

Clause 56 and Schedule 6 of the Bill make provision for the Electoral Commission, rather than the courts, to give permission for candidates and election agents to pay late and disputed claims in respect of certain expenses. I am generally sympathetic to this proposal as a streamlining of the process, but if the Committee has any comments I would be grateful to receive them.

On a similar basis I am also sympathetic to Clause 58 and Schedule 7 of the Bill which provides for amendments to the process for the delivery of certain returns, which are required under a number of statutes, so that they are also delivered to the Electoral Commission.

### Regulation of political campaigning

On campaign regulation, I hope that Members will have had chance to consider my letter to the Delegated Powers and Law Reform Committee dated 15 September. In that letter I highlighted some areas where I considered that there was a need for greater accounting of the interests of the Scottish Parliament and where I would seek to engage with the UK Government further. This included:

- **Clause 63 (and schedule 13) - Risk assessments for donations etc** – I highlighted that it would be my preference with this provision for the Scottish Parliament – in addition to Scottish Ministers - to also have a direct role where regulations made by the Secretary of State under new section 54C(3) to the Political Parties, Elections and Referendums Act 2000 (PPERA) (inserted by Clause 63 of the Bill) will apply in relation to a Scottish devolved donation. I also set out an alternative position: that if no specific provision is to be included in respect to the Scottish Parliament, then it will be necessary in their reaching a view on consent for the Scottish Ministers to have sufficient time to consult with the Parliament. I also highlighted that in relation to the position on the risk assessment guidance approval process under new section 54D of PERA (to be inserted by Clause 63(3)) that - if consent is to be granted – I would wish to seek to ensure that the Scottish Parliament is consulted as a part of that process. Finally, I also set out my proposal to seek that Scottish Parliament should be a named consultee in the Electoral Commission’s guidance process, as they are under section 100BA of PERA for the Code of Practice on controlled expenditure by recognised third parties at Scottish Parliament elections.

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<sup>[1]</sup> <https://www.legislation.gov.uk/sdsi/2026/9780111066829/contents>

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- **Clause 75 - the extension of the Electoral Commission's enforcement functions**  
– I indicated that I was broadly in agreement with the terms of this provision and how it provides for the extension of the Electoral Commission's investigatory and civil sanctioning powers to electoral finance and imprint offences committed by candidates and local third parties. I would of course welcome any views from the Committee in reaching a final position.
- **Clause 77 - Civil sanctions orders: combining reserved and devolved provision**  
– I highlighted that in considering any request for consent the Scottish Government would seek to consult the Scottish Parliament and to ensure that sufficient time for this was factored in. On that basis I am minded towards recommending consent to this provision but would again welcome any views from the Committee.

More generally, the Bill's provisions on the regulation of campaign finance and on the Electoral Commission propose a welcome strengthening of campaign regulation. The position of the UK Government is in favour of a single position across all UK elections on many of these provisions. While I can accept the view that this would reduce complexity and assist in understanding of the rules, I am also conscious that aspects of the law here are devolved to the Scottish Parliament, that there is a need to ensure that Parliament can fully consider possible changes to the law, and that the Parliament retains scope to pursue its own priorities and initiatives. I would suggest that complete standardisation risks effectively returning full control of campaign regulation to the UK Parliament and Government.

To provide an illustration, I would refer to the Bill's provisions on digital imprints requiring identifiers on digital campaign material (see clauses 72 and 73). The Bill is effectively adopting the additional, 'bolt on', digital imprint requirement already created for devolved elections by Part 8 of the 2025 Act, which required unregistered third-party organisations to provide an imprint on campaign material. I maintain that this highlights a benefit of the licence enjoyed by the Scottish Parliament to innovate in this area: an addition to the UK Election Act 2022 regime created for Scottish devolved elections is now being adopted across the UK. But in another way the new provision in the Bill causes concern. The 2025 Act provisions required the Electoral Commission to consult the Scottish Parliament in preparation of guidance in relation to the 'bolt on'. Such a consultation occurred last year and was considered by the Committee's predecessor on 6 November 2025<sup>[2]</sup>. This aspect will now be lost with the new Bill's planned repeal of the 2025 Act provisions and any consultation with the Scottish Parliament will be informal.

The UK Government's assessment is that these imprint provisions do not require consent. The Scottish Government disagrees. This is a longstanding disagreement as the UK Government's view at the time of the digital imprint provisions that are now in the Elections Act 2022 was also that those did not trigger the need for legislative consent<sup>[3]</sup>. The Scottish Government view – as set out in the Legislative Consent Memorandum at the time – was and remains that the extension of the UK-wide regime to unregistered third party organisations triggers the need for legislative consent as they are made for a devolved purpose so far as they relate to devolved elections. In addition, the executive competence of the Scottish Ministers will be altered by the Bill's repeal of the regulation making powers in part 8 of the 2025 Act.

<sup>[2]</sup> <https://www.parliament.scot/chamber-and-committees/official-report/search-what-was-said-in-parliament/SPPAC-06-11-2025?meeting=16673&iob=142379>

<sup>[3]</sup> See the Scottish Government's LCM from 2021 in respect of the Elections Bill: <https://www.parliament.scot/-/media/files/legislation/bills/lcms/elections-bill/splcms068.pdf>

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I remain of the view that legislative consent is required in this area, contrary to the assessment of the UK Government and that the proposed loss of a formal role for the Scottish Parliament is to be opposed. In making those representations to the UK Government – and ultimately on expressing a view on consent - I would welcome any thoughts from the Committee.

On the UK Government's additions to the Bill in response to the Rycroft review, I am supportive of the new 'know your donor' checks, the ban on cryptocurrency donations and the cap on overseas donations. I do again though have concerns which I am pursuing with the UK Government. This includes Clause 63 of the Bill, which includes a power for the Electoral Commission to issue statutory Know Your Donor (KYD) guidance. This draft guidance is subject to approval by the UK Government Secretary of State. While consultation is required with devolved governments before the Secretary of State can approve draft guidance there is no formal role for the Scottish Parliament or Senedd.

There is also the proposed retrospective application of the provisions on cryptocurrency and overseas donations. While I am in principle supportive of the overall aims of the UK Government, any retrospective legislation clearly requires careful consideration. I would especially welcome any views from the Committee on this aspect.

In relation to the Electoral Commission the amended Bill now provides for a reciprocal information gateway between the Commission and certain public authorities, expanding the category of public authorities to which the gateway applies and imposing restrictions on the onward disclosure of information provided by a revenue authority. This does not require consultation with or the consent of Scottish or Welsh Ministers, despite their having a direct interest in the Commission's activities in relation to devolved elections and affecting devolved public authorities. I do not consider this to be acceptable and am seeking an assurance from the UK Government that an adjustment will be made.

Finally, and while this is not a question of legislative consent, I would highlight that the Bill makes no provision to limit donations made by donors based within the UK. The question of a possible limitation here is one with which I have a great deal of sympathy and I would again be interested in the views of the Committee.

I hope that this response is helpful to the Committee and I look forward to meeting to discuss the Bill.

Yours sincerely,



**JAMIE HEPBURN**

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